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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,653	12/20/2001	James M. Vignoles	NA11P048/01.183.01	2731
28875	7590	03/26/2007	EXAMINER	
Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120			PYZOSHA, MICHAEL J	
			ART UNIT	PAPER NUMBER
			2137	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/26/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/028,653	VIGNOLES ET AL.	
	Examiner	Art Unit	
	Michael Pyzocha	2137	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 February 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5, 7, 12-16, 18, 23 and 28-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7, 12-16, 18, 23 and 28-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

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**DETAILED ACTION**

1. Claims 1-5, 7, 12-16, 18, 23, 28-37 are pending.
2. Amendment filed 02/22/2007 has been received and considered.

***Specification***

3. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Nowhere in the specification is a "tangible computer readable medium" described and therefore the specification fails to provide antecedent basis for this claimed subject matter.

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 1, 12, 23, 28, and 29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject

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matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Nowhere in the specification is a "tangible computer readable medium" described and therefore the claims fail to conform to the written description requirement.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 7, 12-16, 18, 23, 29, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over ConSeal PC FIREWALL Technical Summary (hereinafter ConSeal) in view of Hari et al (Detecting and resolving packet filter conflicts) and in view of Coss et al (US 6098172) in view of Chan et al (US 6910028) and further in view of Jacobson (US 6735701).

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As per claims 1, 12, 23, and 29, ConSeal discloses identifying a set of policies, each policy having a condition associated therewith; determining whether the conditions are met; and activating the policies whose associated conditions are determined to be met (see pages 1-2) wherein the activation of the policies includes adding the policies to a set of a plurality of active policies, and executing security actions associated with the active policies if associated limits are met (see pages 1-2).

ConSeal fails to disclose the conditions represent different policies, which are based on priority and determining and resolving any conflicts and the conditions include a time factor, which is at least one of a timeframe, a predetermined time period, and a time limit, and the conditions include a source of the policies and a severity of security actions associated with the policies.

However, Hari et al teaches such policy priorities and conflict resolution (see page 1204 section II) and Coss et al teaches the use of a time factor (see column 2 lines 29-41) Chan et al teaches the conditions include a source of the policy (see column 7 line 60 through column 8 line 33) and Jacobson teaches the conditions include a severity of security actions associated with the policies (see column 18 lines 15-30).

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At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Hari et al's priorities, conflict resolution and the time factors of Coss et al, the source identification of Chan et al and the severity classification of Jacobson in the firewall system of ConSeal.

Motivation to do so would have been to avoid matching multiple filters with confliction actions (see Hari et al page 1204 section II) and to allow a given rule set to be modified based on events happening in the network without requiring that the entire rule set be reloaded (see Coss et al column 2 lines 29-41) it enables deep semantic guarantees including consistency (see Chen et al column 7 line 60 through column 8 line 33) and to allow for different policies to occur based compliance and severity (see Jacobson column 18 lines 15-49).

As per claims 2-3 and 13-14, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses activating the policies if the user confirms (see ConSeal page 2).

As per claims 4-5 and 15-16, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses updating includes receiving another inactive policy, determining whether the user accepts the inactive policy, and adding the inactive policy to the set if the user accepts the inactive policy (see ConSeal page 2).

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As per claims 7, 18, and 34-37, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses determining whether the conditions associated with the active policies are still met, and de-activating the active policies if the associated conditions are not met and reusing or discarding the de-activated policy (see bottom of page 1 to the top of page 2).

As per claim 33, the modified ConSeal, Hari et al, Coss et al, and Chan et al system discloses the identifying, determining and activating are controlled locally (see ConSeal page 1).

8. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Horvitz et al (US 2003021621).

As per claim 28, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to disclose the conditions represent an urgency associated with an issue causing the policy to be activated.

However, Brock et al teaches such a priority based on urgency (see paragraph 117).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Brock et al's teaching of urgency based priority in the modified ConSeal, Hari et al, Coss et al, and Chan et al system.

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Motivation to do so would have been to facilitate efficient processing of electronic information while mitigating the costs of manual interventions associated therewith (see paragraph 6).

9. Claims 30-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified ConSeal, Hari et al, Coss et al, and Chan et al system as applied to claim 1 above, and further in view of Cisco (IPSec User Guide for the Cisco Secure PIX Firewall Version 5.2).

As per claims 30-32, the modified ConSeal, Hari et al, Coss et al, and Chan et al system fails to disclose three policies with different priorities having different valid time periods.

However Cisco teaches such policies (see "Enabling and Configuring IKE" pages 6-1 and 6-2).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use the policies of Cisco in the modified ConSeal, Hari et al, Coss et al, and Chan et al system.

Motivation to do so would have been to allow the firewall to use Internet Key Exchange (see top of page 6-1).



***Response to Arguments***

10. Applicant's arguments with respect to claims 11 and 22 (now incorporated within the independent claims) have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed 02/22/2007 have been fully considered but they are not persuasive. Hari fails to teach activating policies under different priority conditions and lacks motivation to make a combination; Horvitz fails to teach the conditions represent an urgency associated with an issue causing the policy to be activated; Chan fails to disclose conditions include a source of the policies; and ConSeal fails to disclose determining whether a user confirms the activation of policies and activating based on the confirmation.

With respect to Applicant's argument that Hari fails to teach activating policies under different priority-related conditions, as stated previously Hari discloses the use of priorities to resolve conflicts. To extend the example before the descriptions of a), b), and c) on page 1204, to three filters  $F_1 = (128.112.*,*)$  with  $A(F_1) = \{100 \text{ Mbps bandwidth}\}$ ,  $F_2 = (*, 128.122.*)$  with  $A(F_2) = \{1 \text{ Mbps bandwidth}\}$  and if we add  $F_3 = (*,*)$  with  $A(F_3) = \{500 \text{ Kbps bandwidth}\}$  with  $F_1$  having the highest priority and  $F_3$  having the lowest, this third filter is well within the scope of Hori as Hori discloses the use of any

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number of filters with wildcards (\*). So whenever traffic comes to the filter from the network (128.112.\*) destined for the network (128.122.\*) there is a conflict between all three filters, since  $F_1$  has the highest priority it will be chosen.

Therefore,  $F_1$  is chosen under a first priority-related condition.

On the other hand, when traffic comes to the filter from anywhere but (128.112.\*) and is destined to (128.122.\*) there is a conflict between  $F_2$  and  $F_3$  and since  $F_2$  has a higher priority it will be chosen. Therefore  $F_2$  is chosen under a second priority-related condition. So Hari teaches activating policies under different priority-related conditions. Regarding

Applicant's argument that Hari lacks motivation because Hari discloses some drawbacks to the method, the Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case Hari teaches methods of resolving conflicts (with its own benefits) using methods a), b), and c) and further states that these methods are simple to implement.

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Therefore, Hari has some teaching, suggestion, or motivation to use the method described.

With respect to Applicant's argument that Horvitz fails to teach the conditions represent an urgency associated with an issue causing the policy to be activated, the combination must be considered as a whole. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). In this case, Horvitz teaches using urgency for a measure of priority for influencing an alerting and/or routing policy, therefore when combined as given above the alerts to activate a policy based on an issue given by ConSeal now have an urgency related to them. Therefore the combination teaches the conditions represent an urgency associated with an issue causing the policy to be activated.

With respect to Applicant's argument that Chan fails to disclose conditions include a source of the policies, Chen specifically teaches that the priority is based on the authority level of the originating source application. Therefore, the policies have a priority and this priority is based on the source application so Chen teaches conditions include a source of the policies (where the conditions are the priority).

With respect to Applicant's argument that ConSeal fails to disclose determining whether a user confirms the activation of

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policies and activating based on the confirmation, when ConSeal is in the Checked Learning Mode and a packet arrives with no policy ConSeal creates two inactive policies (allow or block) and presents the user with these two options and when the user selects one of these options the user confirms the activation of the policy (as stated similarly in the previous action). This prompting and generating of a rule is generating of an activated policy and the presentation of the two options (allow or block) is a display of two inactive policies. Applicant next argues that ConSeal teaches away from this because it manages the rule sets behind the scenes, however, this is in a different mode than that of the Checked Learning Mode and therefore has no relevance.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the

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organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

  
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SUPERVISORY PATENT EXAMINER